

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

SOUTH CAROLINA COASTAL
CONSERVATION LEAGUE; et al.,

Plaintiffs,

v.

WILBUR ROSS, in his official capacity as the
Secretary of Commerce; et al.,

Defendants.

CITY OF BEAUFORT; et al.,

Plaintiffs,

v.

NATIONAL MARINE FISHERIES
SERVICE; et al.,

Defendants.

NO. 2:18-cv-03326-RMG

ANSWER OF INTERVENOR-
DEFENDANTS INTERNATIONAL
ASSOCIATION OF GEOPHYSICAL
CONTRACTORS, CGG SERVICES
(U.S.) INC., GX TECHNOLOGY
CORPORATION, SPECTRUM GEO
INC., TGS-NOPEC GEOPHYSICAL
COMPANY, WESTERNGECO LLC
AND THE AMERICAN PETROLEUM
INSTITUTE TO SOUTH CAROLINA
COASTAL CONSERVATION
LEAGUE ET AL.'S COMPLAINT

ANSWER

Intervenor-Defendants International Association of Geophysical Contractors, CGG Services (U.S.), Inc., GX Technology Corporation, Spectrum Geo Inc., TGS-NOPEC Geophysical Company, WesternGeco LLC, and the American Petroleum Institute (collectively, “Intervenors”) answer plaintiffs’ Complaint for Declaratory and Injunctive Relief (“Complaint”) as follows, in paragraphs numbered to correspond to the paragraph numbers in the Complaint:

INTRODUCTION

1. The allegations of paragraph 1 are speculative, inaccurate, misleading, overbroad, vague, and ambiguous, and are therefore denied.

2. The allegations of paragraph 2 state plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

3. In response to paragraph 3, Intervenor admit that marine mammals use sound for life functions. The remaining allegations of paragraph 3 are overly broad, vague, and ambiguous, and are therefore denied.

4. The allegations of paragraph 4 are speculative, misleading, inaccurate, overly broad, vague, and ambiguous, and are therefore denied.

5. Intervenor deny the allegations in the first sentence of paragraph 5. Intervenor are without information sufficient to form a belief as to the truth of the remaining allegations of paragraph 5 and therefore deny them.

6. The allegations of paragraph 6 are speculative, overbroad, vague, and ambiguous, and are therefore denied.

7. Intervenor deny the allegations of the first sentence of paragraph 7. The remaining allegations of paragraph 7 are speculative, overbroad, vague, and ambiguous, and are therefore denied.

8. The allegations of paragraph 8 are speculative, overbroad, vague, and ambiguous, and are therefore denied.

9. Paragraph 9 states plaintiffs' characterizations of law, which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

10. Intervenor deny the allegations of paragraph 10.

11. Paragraph 11 states plaintiffs' characterizations of law, which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

12. Intervenor deny the allegations of paragraph 12.

13. Paragraph 13 states plaintiffs' characterizations of law, which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

14. Intervenor deny the allegations of paragraph 14.

15. Intervenor deny the allegations in the first sentence of paragraph 15. In response to the remaining allegations of paragraph 15, Intervenor deny that plaintiffs are entitled to the relief requested.

JURISDICTION AND VENUE

16. In response to paragraph 16, Intervenor state that the Court's jurisdiction is a matter of law which does not require a response, and further states that the cited federal laws speak for themselves.

17. In response to paragraph 17, Intervenor state that the question of venue is a matter of law which does not require a response, and further states that the cited federal law speaks for itself.

18. In response to paragraph 18, Intervenor state that the question of assignment within the District of South Carolina is a matter of law which does not require a response, and further states that the cited Local Rule speaks for itself.

PARTIES

19. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 19, and therefore deny them.

20. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 20, and therefore deny them.

21. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 21, and therefore deny them.

22. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 22, and therefore deny them.

23. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 23, and therefore deny them.

24. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 24, and therefore deny them.

25. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 25, and therefore deny them.

26. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 26, and therefore deny them.

27. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 27, and therefore deny them.

28. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 28, and therefore deny them.

29. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 29, and therefore deny them.

30. Intervenor deny the allegations of paragraph 30.

31. Intervenor deny the allegations of paragraph 31.

32. In response to paragraph 32, Intervenor admit that NMFS is a subdivision of the National Oceanic and Atmospheric Administration, which is an agency within the U.S. Department of Commerce. The remaining allegations of paragraph 32 state plaintiffs' characterization agency documents and decisions, which require no response as those documents and decisions speak for themselves. To the extent plaintiffs' allegations are inconsistent with the referenced agency documents and decisions, Intervenor deny them.

33. In response to paragraph 33, Intervenor admit that Chris Oliver is the Assistant Administrator for Fisheries and is the highest ranking official within NMFS.

34. In response to paragraph 34, Intervenor admit that Wilbur Ross is the Secretary of the U.S. Department of Commerce with all responsibilities prescribed by applicable law.

STATUTORY AND REGULATORY BACKGROUND

35. Paragraph 35 states plaintiffs' characterizations of laws which require no response as the applicable laws speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable laws, Intervenor deny them.

36. Paragraph 36 states plaintiffs' characterizations of law and legislative history which require no response as the applicable law and legislative history speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable law and legislative history, Intervenor deny them.

37. Paragraph 37 states plaintiffs' characterizations of law which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

38. Paragraph 38 states plaintiffs' characterizations of law and federal regulations which require no response as the applicable law and regulations speak for themselves. To the extent

plaintiffs' allegations are inconsistent with applicable law and regulations, Intervenor deny them.

39. Paragraph 39 states plaintiffs' characterizations of law and federal regulations which require no response as the applicable law and regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable law and regulations, Intervenor deny them.

40. Paragraph 40 states plaintiffs' characterizations of law which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

41. Paragraph 41 states plaintiffs' characterizations of law and federal regulations which require no response as the applicable law and regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable law and regulations, Intervenor deny them.

42. Paragraph 42 states plaintiffs' characterizations of federal regulations which require no response as the applicable regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them.

43. Paragraph 43 states plaintiffs' characterizations of law and federal regulations which require no response as the applicable law and regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable law and regulations, Intervenor deny them.

44. Paragraph 44 states plaintiffs' characterizations of law and federal regulations which require no response as the applicable law and regulations speak for themselves. To the extent

plaintiffs' allegations are inconsistent with applicable law and regulations, Intervenor deny them.

45. Paragraph 45 states plaintiffs' characterizations of federal regulations which require no response as the applicable regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them.

46. Paragraph 46 states plaintiffs' characterizations of federal regulations which require no response as the applicable regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them.

47. Paragraph 47 states plaintiffs' characterizations of law and federal regulations which require no response as the applicable law and regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable law and regulations, Intervenor deny them.

48. Paragraph 48 states plaintiffs' characterizations of law and federal regulations which require no response as the applicable law and regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable law and regulations, Intervenor deny them.

49. Paragraph 49 states plaintiffs' characterizations of law and federal regulations which require no response as the applicable law and regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable law and regulations, Intervenor deny them.

50. Paragraph 50 states plaintiffs' characterizations of law which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

51. Paragraph 51 states plaintiffs' characterizations of law which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

52. Paragraph 52 states plaintiffs' characterizations of laws and federal regulations which require no response as the applicable laws and regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable laws and regulations, Intervenor deny them.

53. Paragraph 53 states plaintiffs' characterizations of law and federal regulations which require no response as the applicable law and regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable law and regulations, Intervenor deny them.

54. Paragraph 54 states plaintiffs' characterizations of federal regulations which require no response as the applicable regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them.

55. Paragraph 55 states plaintiffs' characterizations of federal regulations which require no response as the applicable regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them.

56. Paragraph 56 states plaintiffs' characterizations of federal regulations which require no response as the applicable regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them.

57. Paragraph 57 states plaintiffs' characterizations of federal regulations which require no response as the applicable regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them.

58. Paragraph 58 states plaintiffs' characterizations of federal regulations which require no response as the applicable regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them.

59. Paragraph 59 states plaintiffs' characterizations of federal regulations which require no response as the applicable regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them.

60. Paragraph 60 states plaintiffs' characterizations of law and federal regulations which require no response as the applicable law and regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable law and regulations, Intervenor deny them.

61. Paragraph 61 states plaintiffs' characterizations of law which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

62. Paragraph 62 states plaintiffs' characterizations of law which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

FACTUAL BACKGROUND

63. In response to paragraph 63, Intervenor admit that the waters of the Mid- and South Atlantic contain various marine species. The remaining allegations of paragraph 63 are vague and ambiguous, and are therefore denied.

64. In response to the first two sentences of paragraph 64, Intervenor admit the North Atlantic right whale is federally listed as an endangered species and that the species migrates along the Atlantic coast. The remaining allegations of paragraph 64 are vague and ambiguous, and are therefore denied.

65. In response to the first sentence of paragraph 65, Intervenor's admit the North Atlantic right whale is federally listed as an endangered species. Intervenor's are without information sufficient to form a belief as to the truth of the remaining allegations of paragraph 65, and therefore deny them.

66. Intervenor's are without information sufficient to form a belief as to the truth of the allegations of paragraph 66, and therefore deny them.

67. Intervenor's are without information sufficient to form a belief as to the truth of the allegations of paragraph 67, and therefore deny them.

68. In response to paragraph 68, Intervenor's admit that the waters of the Mid- and South Atlantic contain various marine species. The remaining allegations of paragraph 68 are vague and ambiguous, and are therefore denied.

69. The allegations of paragraph 69 are vague and ambiguous, and are therefore denied.

70. Intervenor's are without information sufficient to form a belief as to the truth of the allegations of paragraph 70, and therefore deny them.

71. Intervenor's are without information sufficient to form a belief as to the truth of the allegations of paragraph 71, and therefore deny them.

72. In response to paragraph 72, Intervenor's admit that seismic surveys are used to determine potential offshore oil and gas resources. Intervenor's further admit that geophysical surveys emit acoustic pulses at various time intervals and sound levels depending on the nature of the survey being performed. The remaining allegations of paragraph 72 are inaccurate, misleading, vague, and ambiguous, and are therefore denied.

73. The allegations of paragraph 73 are speculative, inaccurate, misleading, vague, and ambiguous, and are therefore denied.

74. The allegations of paragraph 74 are vague and ambiguous, and are therefore denied.

75. In response to the first and second sentences of paragraph 75, Intervenor's admit that marine mammals use sound for certain life functions. The remaining allegations of paragraph 75 are vague and ambiguous, and are therefore denied.

76. The allegations of paragraph 76 are inaccurate, misleading, vague, and ambiguous, and are therefore denied.

77. Intervenor's deny the allegations of the first sentence of paragraph 77. The remaining allegations of paragraph 77 are speculative, misleading, vague, and ambiguous, and are therefore denied.

78. The allegations of paragraph 78 are speculative, misleading, vague, and ambiguous, and are therefore denied.

79. The allegations of paragraph 79 are speculative, misleading, vague, and ambiguous, and are therefore denied.

80. The allegations of paragraph 80 are speculative, misleading, vague, and ambiguous, and are therefore denied.

81. The allegations of paragraph 81 are speculative, misleading, vague, and ambiguous, and are therefore denied.

82. The allegations of paragraph 82 are speculative, misleading, vague, and ambiguous, and are therefore denied.

83. The allegations of paragraph 83 are speculative, misleading, vague, and ambiguous, and are therefore denied.

84. Intervenor deny the allegations of the first sentence of paragraph 84. The remaining allegations of paragraph 84 are speculative, inaccurate, misleading, vague, and ambiguous, and are therefore denied.

85. The allegations of paragraph 85 are speculative, misleading, vague, and ambiguous, and are therefore denied.

NMFS's Authorization of Seismic Surveys in the Atlantic

86. Intervenor are without information sufficient to form a belief as to the truth of the allegations of paragraph 86 and therefore deny them.

87. Paragraph 87 states plaintiffs' characterization of federal agency documents and decisions, which require no response as those documents and decisions speak for themselves. To the extent plaintiffs' allegations are inconsistent with the federal documents and decisions, Intervenor deny them.

88. Paragraph 88 states plaintiffs' characterization of federal agency documents and decisions, which require no response as those documents and decisions speak for themselves. To the extent plaintiffs' allegations are inconsistent with the federal documents and decisions, Intervenor deny them.

89. Paragraph 89 states plaintiffs' characterization of federal agency documents and decisions, which require no response as those documents and decisions speak for themselves. To the extent plaintiffs' allegations are inconsistent with the federal documents and decisions, Intervenor deny them.

90. Intervenor are without information sufficient to form a belief as to the truth of the allegations of paragraph 90, and therefore deny them.

91. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 91, and therefore deny them.

92. In response to the first sentence of paragraph 92, Intervenor admits that in 2014 and 2015 five seismic survey companies submitted separate requests for authorization for take of marine mammals incidental to geophysical surveys in the Atlantic Ocean. In response to the second sentence of paragraph 92, Intervenor admits that the same companies submitted applications to BOEM for permits pursuant to the Outer Continental Shelf Lands Act.

93. Paragraph 93 states plaintiffs' characterization of federal agency documents and decisions, which require no response as those documents and decisions speak for themselves. To the extent plaintiffs' allegations are inconsistent with the federal documents and decisions, Intervenor denies them.

94. In response to paragraph 94, Intervenor admits, based on agency representations, that NMFS suspended its consideration of pending incidental harassment authorization applications after BOEM denied the then-pending seismic survey permit applications.

95. Paragraph 95 states plaintiffs' characterization of federal agency documents and decisions, which require no response as those documents and decisions speak for themselves. To the extent plaintiffs' allegations are inconsistent with the federal documents and decisions, Intervenor denies them.

96. Paragraph 96 states plaintiffs' characterization of federal agency documents and decisions, which require no response as those documents and decisions speak for themselves. To the extent plaintiffs' allegations are inconsistent with the federal documents and decisions, Intervenor denies them.

97. Intervenor is without information sufficient to form a belief as to the truth of the allegations of paragraph 97, and therefore deny them.

98. Paragraph 98 states plaintiffs' characterizations of federal agency documents, which require no response as those documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the referenced documents, Intervenor deny them.

99. In response to the first sentence of paragraph 99, Intervenor admit that the five survey companies need permits from BOEM to conduct offshore seismic surveys. Intervenor are without information sufficient to form a belief as to the truth of the remaining allegations of paragraph 99, and therefore deny them.

100. Paragraph 100 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

101. Paragraph 101 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

102. Paragraph 102 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

NMFS's MMPA Incidental Harassment Authorizations

103. Paragraph 103 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

104. Paragraph 104 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

105. Paragraph 105 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

106. Paragraph 106 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

107. Paragraph 107 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

108. Paragraph 108 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

109. Paragraph 109 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

110. Paragraph 110 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

111. The first sentence of paragraph 111 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them. Intervenor deny the allegation in the second sentence of paragraph 111.

112. Paragraph 112 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

113. Paragraph 113 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs

and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

114. Paragraph 114 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

115. Intervenor deny the allegations in the first and third sentences of paragraph 115. The second sentence of paragraph 115 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

116. Intervenor deny the allegations of paragraph 116.

117. Intervenor deny the allegations of paragraph 117.

118. Intervenor deny the allegations of the first and last sentences of paragraph 118.

Intervenor are without information sufficient to form a belief as to the truth of the remaining allegations of paragraph 118, and therefore deny them.

119. Paragraph 119 states plaintiffs' characterizations of agency documents and decisions, which require no response as the referenced documents and decisions speak for themselves. To the extent plaintiffs' allegations are inconsistent with the referenced documents and decisions, Intervenor deny them. The allegations of the last sentence of paragraph 119 are speculative, vague, and ambiguous, and are therefore denied.

120. Intervenor deny the allegations of paragraph 120.

121. Paragraph 121 states plaintiffs' characterizations of law which requires no response as the applicable laws speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable laws, Intervenor deny them.

122. Paragraph 122 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

123. Intervenor deny the allegations of paragraph 123.

124. Intervenor deny the allegations of paragraph 124.

125. Paragraph 125 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

126. Paragraph 126 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

127. Intervenor deny the allegations of paragraph 127.

The ESA Biological Opinion and Incidental Take Statement

128. Paragraph 128 states plaintiffs' characterization of scientific and factual matters that are addressed in the Biological Opinion and associated agency documents, which require no response as the Biological Opinion and associated agency documents speak for themselves. To

the extent plaintiffs' allegations are inconsistent with the Biological Opinion and associated agency documents, Intervenor deny them.

129. Paragraph 129 states plaintiffs' characterization of scientific and factual matters that are addressed in the Biological Opinion and associated agency documents, which require no response as the Biological Opinion and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Biological Opinion and associated agency documents, Intervenor deny them.

130. Paragraph 130 states plaintiffs' characterization of scientific and factual matters that are addressed in the Biological Opinion and associated agency documents, which require no response as the Biological Opinion and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Biological Opinion and associated agency documents, Intervenor deny them.

131. Paragraph 131 states plaintiffs' characterization of scientific and factual matters that are addressed in the Biological Opinion and associated agency documents, which require no response as the Biological Opinion and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Biological Opinion and associated agency documents, Intervenor deny them.

132. Paragraph 132 states plaintiffs' characterization of scientific and factual matters that are addressed in the Biological Opinion and associated agency documents, which require no response as the Biological Opinion and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Biological Opinion and associated agency documents, Intervenor deny them.

133. The first sentence of paragraph 133 states plaintiffs' characterization of scientific and factual matters that are addressed in the Biological Opinion and associated agency documents, which require no response as the Biological Opinion and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Biological Opinion and associated agency documents, Intervenor deny them. Intervenor deny the remaining allegations of paragraph 133.

134. Paragraph 134 states plaintiffs' characterization of scientific and factual matters that are addressed in the IHAs and associated agency documents, which require no response as the IHAs and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the IHAs and associated agency documents, Intervenor deny them.

135. Paragraph 135 states plaintiffs' characterizations of scientific and factual matters that are addressed in the Biological Opinion and associated agency documents, which require no response as the Biological Opinion and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Biological Opinion and associated agency documents, Intervenor deny them.

136. Paragraph 136 states plaintiffs' characterization of scientific and factual matters that are addressed in the Biological Opinion and associated agency documents, which require no response as the Biological Opinion and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Biological Opinion and associated agency documents, Intervenor deny them.

137. Paragraph 137 states plaintiffs' characterization of scientific and factual matters that are addressed in the Biological Opinion and associated agency documents, which require no response as the Biological Opinion and associated agency documents speak for themselves. To

the extent plaintiffs' allegations are inconsistent with the Biological Opinion and associated agency documents, Intervenor deny them.

138. Paragraph 138 states plaintiffs' characterization of scientific and factual matters that are addressed in the Biological Opinion and associated agency documents, which require no response as the Biological Opinion and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Biological Opinion and associated agency documents, Intervenor deny them.

139. Paragraph 139 states plaintiffs' characterization of scientific and factual matters that are addressed in the Biological Opinion and associated agency documents, which require no response as the Biological Opinion and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Biological Opinion and associated agency documents, Intervenor deny them.

The NEPA Programmatic EIS and Environmental Assessment

140. Paragraph 140 states plaintiffs' characterization of scientific and factual matters that are addressed in the Environmental Assessment and associated agency documents, which require no response as the Environmental Assessment and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Environmental Assessment and associated agency documents, Intervenor deny them.

141. Paragraph 141 states plaintiffs' characterizations of law and conclusions of law, which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

142. The first sentence of paragraph 142 states plaintiffs' characterizations of federal regulations which require no response as the applicable regulations speak for themselves. To the

extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them. The second sentence of paragraph 142 states plaintiffs' characterization of scientific and factual matters that are addressed in the Environmental Assessment and associated agency documents, which require no response as the Environmental Assessment and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Environmental Assessment and associated agency documents, Intervenor deny them.

143. The first sentence of paragraph 143 states plaintiffs' characterizations of federal regulations which require no response as the applicable regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them. The remaining allegations of paragraph 143 state plaintiffs' characterizations of scientific and factual matters that are addressed in the Environmental Assessment and associated agency documents, which require no response as the Environmental Assessment and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Environmental Assessment and associated agency documents, Intervenor deny them.

144. The first sentence of paragraph 144 states plaintiffs' characterizations of federal regulations which require no response as the applicable regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them. The remaining allegations of paragraph 144 state plaintiffs' characterizations of scientific and factual matters that are addressed in the Environmental Assessment and associated agency documents, which require no response as the Environmental Assessment and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Environmental Assessment and associated agency documents, Intervenor deny them.

145. Paragraph 145 states plaintiffs' characterization of scientific and factual matters that are addressed in the Environmental Assessment and associated agency documents, which require no response as the Environmental Assessment and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Environmental Assessment and associated agency documents, Intervenor deny them.

146. Paragraph 146 states plaintiffs' characterization of scientific and factual matters that are addressed in the Environmental Assessment and associated agency documents, which require no response as the Environmental Assessment and associated agency documents speak for themselves. To the extent plaintiffs' allegations are inconsistent with the Environmental Assessment and associated agency documents, Intervenor deny them.

147. Intervenor deny the allegations of paragraph 147.

FIRST CLAIM FOR RELIEF

148. Intervenor admit and deny the allegations of paragraph 148 as stated above.

149. Paragraph 149 states plaintiffs' characterizations of law, which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

150. Paragraph 150 states plaintiffs' characterizations of law, which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

151. Paragraph 151 states plaintiffs' characterization of federal regulations, which require no response as the applicable regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable regulations, Intervenor deny them.

152. Paragraph 152 states plaintiffs' characterizations of law, which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

153. Intervenor deny the allegations of paragraph 153.

154. Intervenor deny the allegations of paragraph 154.

155. Intervenor deny the allegations of paragraph 155.

156. Intervenor deny the allegations of paragraph 156.

SECOND CLAIM FOR RELIEF

157. Intervenor admit and deny the allegations of paragraph 157 as stated above.

158. Paragraph 158 states plaintiffs' characterizations of law, which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

159. Paragraph 159 states plaintiffs' characterizations of law, which require no response as the applicable laws speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable laws, Intervenor deny them.

160. Intervenor deny the allegations of paragraph 160.

161. Intervenor deny the allegations of paragraph 161.

162. Intervenor deny the allegations of paragraph 162.

163. Intervenor deny the allegations of paragraph 163.

THIRD CLAIM FOR RELIEF

164. Intervenor admit and deny the allegations of paragraph 164 as stated above.

165. Paragraph 165 states plaintiffs' characterizations of law, which require no response as the applicable law speaks for itself. To the extent plaintiffs' allegations are inconsistent with applicable law, Intervenor deny them.

166. Paragraph 166 states plaintiffs' characterizations of law and federal regulations, which require no response as the applicable law and regulations speak for themselves. To the extent plaintiffs' allegations are inconsistent with applicable law and regulations, Intervenor deny them.

167. Intervenor deny the allegations of paragraph 167.

168. Intervenor deny the allegations of paragraph 168.

169. Intervenor deny the allegations of paragraph 169.

170. Intervenor deny the allegations of paragraph 170.

REQUEST FOR RELIEF

Intervenor deny that plaintiffs are entitled to any of the relief requested in the Complaint, including, but not limited to, the relief prayed for in paragraphs A through J of the Request for Relief.

Except as expressly admitted in this Answer, Intervenor deny each and every allegation contained in plaintiffs' Complaint and the whole thereof.

INTERVENORS' AFFIRMATIVE DEFENSES

Intervenor assert the following affirmative defenses:

1. Plaintiffs have failed to state a claim for which relief may be granted.
2. Plaintiffs lack standing to bring their claims.
3. This Court lacks jurisdiction over some or all of plaintiffs' claims.
4. Some or all of plaintiffs' claims are barred by the doctrines of ripeness, laches, or exhaustion of administrative remedies.
5. Intervenor reserve the right to amend or supplement these affirmative defenses as appropriate.

WHEREFORE, Intervenor, having fully answered the allegations contained in plaintiffs' Complaint, respectfully requests that this Court enter a judgment dismissing the Complaint with prejudice, and awarding such other and further relief as may be just and warranted.

DATED: February 18, 2019

Respectfully submitted,

S/Sean Houseal

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